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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,911	09/29/2003	Scott R. Watterson	13914.579.11	8978
22913 7590 04/22/2008 WORKMAN NYDEGGER 60 EAST SOUTH TEMPLE 1000 EAGLE GATE TOWER SALT LAKE CITY, UT 84111				
EXAMINER				
RICHMAN, GLENNE				
ART UNIT		PAPER NUMBER		
3764				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/674,911

**Applicant(s)**

WATTERSON ET AL.

**Examiner**

/Glenn Richman/

**Art Unit**

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**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 10-26, 28-34 and 58-69 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10-26, 28-34 and 58-69 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/08)  
Paper No(s)/Mail Date 11/21/07, 3/13/08
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 10-14, 16-26, 28-34, 58-69 are rejected under 35 U.S.C. 102(e) as being anticipated by Shea (6050924).

Shea discloses a receptacle that supports at least one storage medium containing an exercise program to be delivered to the plurality of exercise devices (col. 6, lines 61 – et seq.), said exercise programming comprising (col. 6, lines 61 – et seq.), motivational content (col. 6, lines 61 – et seq.), and (ii) control signals synchronized with said motivational content (col. 6, lines 61 – et seq.); and a wireless transmitter communicably connected with said at least one storage medium and receiving said exercise programming, said transmitter delivering said exercise program to the plurality of exercise devices (col. 5, lines 1-14).

As for claims 11-14, 16-18, Shea further discloses said control signals are delivered to the plurality of exercise devices using at least one of an infrared signal and a radio signal (col. 5, lines 1-14), a base, a stand extending from said base, and a control panel mounted to said stand (fig. 4), said receptacle further comprises an input

receptacle that receives said at least one storage medium (col. 6, lines 61 – et seq.), said at least one storage medium comprises one or more of a magnetic storage medium, an optical storage medium, and a flash memory medium (col. 6, lines 23 – et seq.), at least one input port, said input port receiving said exercise programming from a broadcast transmission device (col. 5, lines 1-14), at least one input port, said at least one input port receiving said exercise programming from a computerized output device (col. 5, lines 1-14).

As for claims 19-26, 28-34, Shea further discloses a control panel fig. 4, 8B mounted to said support structure, said control panel comprising: an input receptacle that receives at least one storage medium containing a plurality of exercise programs to be delivered to each of the one or more said plurality of exercise devices (col. 6, lines 61 – et seq.), each of said plurality of exercise programs comprising (i) motivational content (col. 7, lines 8-12), and (ii) control signals synchronized with said motivational content; and a wireless transmitter communicably connected with said input receptacle and receiving said exercise programs from said at least one storage medium (col. 6, lines 61 – et seq.), said transmitter delivering said exercise programs to each of the one or more said plurality of exercise devices using a wireless carrier signal (col. 5, lines 1 – et seq.), wherein said control panel is adapted to enable an exerciser to select one of said plurality of exercise programs at said control panel and activate said control panel such that said wireless transmitter delivers said one of said plurality of exercise programs to said plurality of exercise devices without prior communication from said plurality of exercise devices (col. 6, lines 61 – et seq.), and wherein said central control

unit is adapted to control said plurality of exercise devices in succession without further input from the exerciser (col. 6, lines 61 – et seq.), said at least one input device comprises at least one control that changes at least one operating parameter of the central control unit (col. 5, lines 1 – et seq.), said at least one output device comprises at least one visual display that depicts a visual representation of said exercise programming (col. 3, lines 40 - et seq.), at least one output device comprises at least one audio device that broadcasts an audio portion of said exercise programming (col. 15, line 15), said wireless carrier signal is a signal selected from the group consisting of an infrared signal or a radio signal (col. 5, lines 1-14).

As for claims 58-69, Shea further discloses a receptacle providing a user interface for the central managing unit (col. 6, lines 61 – et seq.), and a transmitter supported by the receptacle (col. 5, lines 1-14), the transmitter delivering exercise programming to the one or more plurality of exercise devices, the exercise programming comprising control signals synchronized with motivational content for controlling an operation of the plurality of exercise devices and simultaneously providing encouragement and/or instruction to the exerciser (col. 7, lines 8-12), wherein the central managing unit is adapted to: control an operation of a first exercise device of the plurality of exercise devices upon selection and activation by the exerciser of exercise programming at the central managing unit (col 6, lines 61 – et seq) and, upon completion of the operation of the first exercise device, control an operation of a second exercise device of the plurality of exercise devices without any additional input from the exerciser at the central managing unit or the plurality of exercise devices (col. 10, lines

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54-67), at least one storage medium (col. 5, lines 1-14), the at least one storage medium storing the exercise programming (col. 5, lines 1-14), an input receptacle that receives at least one storage medium (col. 6, lines 61 – et seq.), a receptacle providing a user interface for the central unit (col. 6, lines 61 – et seq.); and a transmitter supported by the receptacle, the transmitter delivering exercise programming to the one or more exercise devices, wherein the exercise programming includes motivational content and the delivery of the exercise programming is the initial communication between the central unit and the plurality of exercise devices (col. 6, lines 61 – et seq.), the exercise programming includes instructional content (col. 10, lines 27 – et seq.), a central unit for communicating with one or more exercise devices, the central unit comprising: a receptacle providing a user interface for the central unit (col. 2, lines 64 - et seq.); the transmitter is a transceiver for: delivering exercise programming; and receiving feedback signals regarding the performance of exercise at the respective one or more exercise devices (col. 10, lines 27 – et seq.), the exercise programming is delivered to the one or more exercise devices using hardwire connections between the central communications unit and the one or more exercise devices (col. 4, lines 64 - et seq.).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shea in view of Shum.

Shea does not disclose at least one storage medium stores one or more MP3 audio files.

Shum discloses using an MP3 audio file (col. 8, lines 38-45).

It would have been obvious to use Shum's MP3 with Shea, as it is a well known audio device, as taught by Shum, for use of a storage medium.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shea in view of Powers.

Shea does not disclose at least one input port, the input port receiving the exercise programming from an Internet address.

Powers discloses receiving the exercise programming from an Internet address (abstract, col. 4, lines 17-24).

It would have been obvious to use an Internet address, as it is old in the art as disclosed by Powers, with Shea's device, for providing another means of transmitting programming.

### ***Response to Arguments***

Applicant's arguments filed 2/11/08 have been fully considered but they are not persuasive.

1. Shea neither teaches nor suggests control signals initiated and delivered by a central control unit to a plurality of exercise devices or a central control unit that enables a user to select desired programming from the control unit and have the programming

delivered to the exercise devices as recited in claims 10, 19, 58, 61, 64, and 67. Rather, Shea teaches and suggests an exercise system in which a signal is first sent from each of the exercise devices to the central computer and the central computer responds by sending exercise data to the exercise device.

Though Shea may teach a signal is first sent from the exercise device, to the extent claimed the central computer still initiates the delivery to the exercise devices.

2. Shea neither teaches nor suggests an exercise program that is simultaneously delivered to a plurality of exercise devices. Rather, Shea teaches and suggests individual programs being delivered to each exercise apparatus and not a single exercise program being delivered to a plurality of exercise devices.

As Shea discloses a plurality of exercise devices and as the claims do not disclose "simultaneously" delivering the exercise program to the plurality of exercise devices, Shea therefore discloses delivering the exercise program to a plurality of exercise devices.

3. With respect to each of independent claims 10, 19, 58, and 61, although Shea discloses the use of control signals for controlling the exercise level of a stationary bicycle in accordance with an exercise program (See Col. 6, lines 61-63), Applicants respectfully submit that Shea neither teaches nor suggests exercise programming that includes control signals and/or motivational content as recited in claims 10, 19, 58, and 61. Specifically, claims 10 and 19 recite exercise programs "comprising (i) motivational content and (ii) control signals synchronized with said motivational content." Similarly, claim 58 recites "the exercise programming comprising controls signals synchronized



with motivational content for controlling an operation of the plurality of exercise devices and simultaneously providing encouragement and/or instruction to exerciser." Likewise, claim 61 recites "the exercise programming includes motivational content."

As to 3 above, to the extent claimed Shea's motivational content, and/or encouragement/instruction consist of "calories burned, a monitored pulse rate, etc ..." which is displayed simultaneously with the program.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to /Glenn Richman/ whose telephone number is 571-272-4981. The examiner can normally be reached on Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, LoAn Thanh can be reached on (571)272-4966. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Glenn Richman/

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Primary Examiner  
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